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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/396,873	09/15/1999	BRUCE DICKSON	5577-175	8033

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EXAMINER

BROWN, CHRISTOPHER J

ART UNIT	PAPER NUMBER
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2134

DATE MAILED: 02/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/396,873

Applicant(s)

DICKSON ET AL.

Examiner

Christopher J. Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-37 and 39 is/are rejected.
- 7) ☒ Claim(s) 38 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09/15/99 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 9/15/1999 have been fully considered but they are not persuasive.

### ***Claim Rejections - 35 USC § 102***

2. **Claims 1-7, 9-12, 23-28, 30-32, are rejected under 35 U.S.C. 102(e) as being anticipated by Chang US 5,828,034.**

As per claims 1-7, 9-12, 23-28, and 30-32, Chang discloses a heated keyboard, which can control the heat around a set point. Applicant argues that this would not inherently mask a signature of entry. The Examiner disagrees; the heated keyboard set in the range of human temperature would inherently mask a signature of entry. Therefore Claims 1-7, 9-12, 23-28, and 30-32 are rejected. Please see the first office action on the merits.

**Claims 1, 14, 15, 19, 20, 21, 23, 33, 34, 39, are rejected under 35 U.S.C. 102(b) as being anticipated by Lipman US 5,075,606.**

As per claims 1, 14, 15, 19, 20, 21, 23, 33, 34, and 39, Lipman discloses a PC fan that is noisy. It is obvious that the fan would be loud, for example shown on page 1 of Fan Noise Solutions [<http://www.cpehma.co.uk/>]. The applicant argues that the noise would not inherently mask data entry. The examiner argues the noise inherently *would* mask the data entry. Please see the first office action on the merits.

**Claims 1, 14, 15, 16, 22, 23, 34 35, and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Patrick US 5,778,081.**

As per claims 1, 14, 15, 16, 22, 23, 34, 35, and 36, Patrick discloses an active noise control system that emits a noise to cancel out a perceived noise. This control system inherently masks data entry as recited in the claims. Applicant argues that the control system does not mask data entry. The examiner respectfully disagrees. Claims 1, 14, 15, 16, 22, 23, 34, 35, and 36 are rejected. Please see the first office action on the merits.

**Claims 1, 14, 15, 17, 23, 34, 36 and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by McGregor US 4,052,720.**

As per claims 1, 14, 15, 17, 23, 34, 36, and 37, McGregor discloses emitting pre recorded sounds in the form of Music. The applicant argues that this does not inherently mask data entry. The examiner respectfully disagrees. The music disclosed in McGregor does inherently mask data entry. Claims 1, 14, 15, 17, 23, 34, 36, and 27 are rejected. Please see the first office action on the merits.

***Claim Rejections - 35 USC § 103***

**Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chang US 5,828034.**

3. As per claim 8 Chang discloses a heated keyboard, which can control the heat around a set point. Chang discloses the range to be between 70F to 120F Applicant argues that

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this would not inherently mask a signature of entry. The Examiner disagrees; the heated keyboard set in the range of human temperature would inherently mask a signature of entry. Therefore Claims 8 is rejected. Please see the first office action on the merits.

**Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chang US 5,828034 in view of Jacobi Jr. US 4,727,655.**

As per claim 13, Chang discloses heating a data entry device, and Jacobi discloses using an infrared heat lamp for heating. The applicant argues that one of skill in the art would not look to a heat lamp, and that neither of these references teaches masking data entry.

The examiner disagrees. Given that Chang discloses heating a data entry device, it would be logical for one of ordinary skill in the art to look at an infrared heat lamp for heating a desired surface. As written in the previous action the lamp is economical and efficient.

The examiner argues that it is inherent that this method would mask data entry. Please see the first office action on the merits.

**Claim 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang US 5,828034 in view of Lipman US 5,075,606**

As per claim 21, Chang discloses a blower, Lipman discloses a fan. It is obvious that the fan would be noisy, for example shown on page 1 of Fan Noise Solutions

[<http://www.cpemma.co.uk/>]. The applicant argues that the noise would not inherently mask data entry. The examiner argues the noise inherently would mask the data entry.

Please see the first office action on the merits.

*Allowable Subject Matter*

4. Claim 38 is objected to based on its dependence on rejected claim 37.

*Conclusion*

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J Brown whose telephone number is 703-305-8023. The examiner can normally be reached on 8:30-6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on 703-308-4789. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Christopher Brown

1/28/04



GREGORY MORSE  
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